

AMENDED IN SENATE MARCH 27, 2006

SENATE BILL

No. 1785

Introduced by Senator Figueroa

February 24, 2006

An act to add Section 1648 to the Health and Safety Code, relating to human milk, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1785, as amended, Figueroa. Human milk.

Existing law provides that the procurement, processing, distribution, or use of human milk for human consumption constitutes the rendition of a service, and not a sale of the human milk for any purpose.

Existing law provides for the licensure and regulation of tissue banks by the State Department of Health Services.

This bill would require a hospital that collects, processes, stores, or distributes human milk to comply with specified standards that are in effect on the effective date of the bill. It would also exempt a hospital from the tissue bank licensure and regulation requirements for the purpose of collecting, processing, storing, or distributing human milk. The bill would exempt from any screening test requirement human milk to be given to the infant of the woman who expressed the milk.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) There is consensus among health care experts and institutions that breastfeeding is the superior method of feeding and nurturing infants.

(b) The American Dietetic Association states that “human milk provides optimal nutrition to the infant, with its dynamic composition and the appropriate balance of nutrients provided in easily digestible and bioavailable form.”

(c) According to the American Academy of Pediatrics 1997 policy statement, “human milk is uniquely superior for infant feeding and is species-specific; all substitute feeding options differ markedly from it.” The policy statement also asserts that “research in the United States, Canada, Europe, and other developed countries, among predominately middle-class populations, provides strong evidence that human milk feeding decreases the incidence and/or severity of diarrhea, lower respiratory infection, otitis media, bacteremia, bacterial meningitis, botulism, urinary tract infection, and necrotizing enterocolitis.” 2005 policy statement, “human milk is species-specific, and all substitute feeding preparations differ markedly from it, making human milk uniquely superior for infant feeding.” The policy statement also asserts that “research in developed and developing countries of the world, including middle-class populations in developed countries, provides strong evidence that human milk feeding decreases the incidence and severity of a wide range of infectious diseases, including bacterial meningitis, bacteremia diarrhea, respiratory tract infection, necrotizing enterocolitis, otitis media, urinary tract infection, and late-onset sepsis in preterm infants. In addition, postneonatal infant mortality rates in the United States are reduced by 21 percent in breastfed infants. Some studies suggest decreased rates of sudden infant death syndrome in the first year of life and reduction of insulin-dependent (type 1) and noninsulin-dependent (type 2) diabetes mellitus, lymphoma, leukemia, Hodgkin’s disease, overweight and obesity, hypercholesterolemia, and asthma in older children and adults

1 *who were breastfed, compared with individuals who were not*
2 *breastfed.*

3 ~~(d) There is a number of studies that show a possible~~
4 ~~protective effect of human milk feeding against sudden infant~~
5 ~~death syndrome, insulin-dependent diabetes mellitus, Crohn's~~
6 ~~disease, ulcerative colitis, lymphoma, allergic diseases, and other~~
7 ~~chronic digestive diseases.~~

8 ~~(e)~~

9 (d) The American Academy of Pediatrics recommends that
10 infants be exclusively breastfed for approximately six months
11 before being introduced to complementary foods.

12 ~~(f)~~

13 (e) Too few women in California exclusively breastfeed their
14 infants in the early postpartum period, let alone in the first six
15 months of life, as recommended by the American Academy of
16 Pediatrics.

17 ~~(g)~~

18 (f) There are also racial and ethnic disparities with regard to
19 breastfeeding rates. While 61.8 percent (down from 64 percent in
20 2001) of white women in California are exclusively
21 breastfeeding in the hospital, only 40 percent of Asians, 27
22 percent of Pacific Islanders, 30 percent of African-American
23 women, and 29 percent (down from 30 percent in 2001) of
24 Latinas are doing so.

25 ~~(h)~~

26 (g) In "Breastfeeding: Investing in California's Future," the
27 Breastfeeding Promotion Committee Report to the California
28 Department of Health Services Primary Care and Family Health
29 (1996) there was a finding that "... women look to health care
30 providers for breastfeeding information and support; however,
31 health care systems, policies, and personnel often unknowingly
32 interfere with the initiation and continuation of breastfeeding."
33 This report also states that health care professionals are in a key
34 position to effect breastfeeding success, and promotional efforts
35 will be successful only if women who are encouraged to
36 breastfeed encounter providers who are able to respond to their
37 needs.

38 ~~(i)~~

39 (h) Current California law inadvertently discourages the
40 feeding of breast milk to infants in the hospital by requiring a

1 hospital that permits a mother to store her milk in a hospital
2 refrigerator to obtain and maintain a full tissue bank license.

3 ~~(j)~~

4 (i) Hospitals that cannot complete the process for obtaining a
5 full tissue bank license cannot legally allow a mother to store her
6 milk in a refrigerator on the hospital premises.

7 ~~(k)~~

8 (j) A mother whose infant is admitted to a hospital may not be
9 able to be physically present to breastfeed the infant at each
10 feeding time, and may wish to store her milk in a refrigerator *or*
11 *freezer* on the hospital premises. Many hospitals wish to permit
12 mothers to do this, but are unable to do so due to the lengthy and
13 complicated process required to obtain a full tissue bank license
14 from the State of California.

15 ~~(l)~~

16 (k) It is the intent of the Legislature to adopt policies that
17 promote and encourage the breastfeeding of all infants, including
18 those who are hospitalized.

19 SEC. 2. Section 1648 is added to the Health and Safety Code,
20 to read:

21 1648. (a) A hospital that collects, processes, stores, or
22 distributes human milk shall comply with the standards
23 established for the collection, processing, storage, or distribution
24 of human milk that are in effect on the effective date of this
25 section by the Human Milk Banking Association of North
26 America or other nationally recognized organization.

27 (b) A hospital shall be exempt from the requirements of
28 Chapter 4.1 (commencing with Section 1635) for the purpose of
29 collecting, processing, storing, or distributing human milk.

30 (c) Notwithstanding any other provision of law, no screening
31 tests shall be required to be performed on human milk given to
32 the infant of the woman who expressed it.

33 SEC. 3. This act is an urgency statute necessary for the
34 immediate preservation of the public peace, health, or safety
35 within the meaning of Article IV of the Constitution and shall go
36 into immediate effect. The facts constituting the necessity are:

37 In order that needed statutory changes allowing hospitals to
38 comply with specified standards for the collection, processing,
39 storage, and distribution of human milk can be enacted at the

- 1 earliest possible time, it is necessary that this act take effect
- 2 immediately.

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